Marion A. Guay
v.
City of Franklin

Docket Nos. 6436-89 and 8971-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1989 and 1990 assessments of $377,600 on a 7.5-acre lot with four buildings (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer was unable to attend the hearing due to a conflict. However, a descriptive appraisal report was submitted to support the Taxpayer's allegations of overassessment.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) an appraiser estimated the value at $325,000 - $345,000;

(2) the lot probably cannot be subdivided;

(3) the brick building is in poor condition with extreme functional obsolescence; and

(4) it is disproportionate compared to other assessments.

The City argued the assessment was proper because:

(1) adjustments were given to account for the physical and functional condition of the Property;

(2) additional economic depreciation was given to the two dwellings for their proximity to the old service shop and for being in an industrial zone; and

(3) the Taxpayer's appraisal range of $325,000 to $340,000 is within 9 percent of the City's assessment.

Based on the evidence, we find the correct assessment should be $350,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the City shall make this allocation in accordance with its assessing practices.)

This assessment is ordered because the Property has many dysfunctional features (e.g., long-stair access to newer dwelling; oversized and outdated barns and service shop, old gas pumps and underground tanks, etc.).

If the taxes have been paid, the amount paid on the value in excess of $350,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Alexander M. Laciatto, Conservator for Marion Guay, and to the Chairman, Board of Assessors, City of Franklin.

July 30, 1992

Valerie B. Lanigan, Clerk

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